

ADMINISTRATIVE ORDER

SUPREME COURT OF APPEALS OF WEST VIRGINIA

**IN RE: MOUNTAIN STATE UNIVERSITY LITIGATION, KANAWHA COUNTY  
CASE NO. 12-C-9000**

**KIMBERLY H. O'TOOLE, PH.D. V. MOUNTAIN STATE UNIVERSITY, INC.  
AND CHARLES H. POLK, KANAWHA COUNTY CIVIL ACTION NO. 12-C-  
1297**

By Administrative Order entered December 6, 2012, then Chief Justice Menis E. Ketchum granted the "Court's Motion to Refer Civil Actions Regarding Mountain State University, Inc. to the Mass Litigation Panel" and the "Court's Supplemental Motion to Refer Civil Actions Regarding Mountain State University, Inc. to the Mass Litigation Panel," filed in Jessica Bostic v. Mountain State University, Inc., Raleigh County Civil Action Number 12-C-85, and referred, *inter alia*, all currently pending civil actions identified in Exhibit A to the Motion to Refer and all currently pending civil actions identified in Exhibit A to the Supplemental Motion to the Mass Litigation Panel ("Panel").

The December 6, 2012, Order further provided, *inter alia*, that, if the Panel later determines that any civil action referred to it pursuant to the Order is not sufficiently similar or related to this Mass Litigation, the Panel may request that the Chief Justice transfer the civil action from the Panel to the appropriate circuit court.

By letter dated February 6, 2013, the Honorable Alan D. Moats, Lead Presiding Judge in the Mountain State University Litigation, advised Chief Justice Brent D. Benjamin that the Panel has determined the claims in Kimberly H. O'Toole, Ph.D. v. Mountain State University, Inc. and Charles H. Polk, Kanawha County Civil Action No. 12-C-1297 ("*O'Toole*"), one of the cases referred to the Panel on December 6, 2012, do not involve common questions of law or fact with the claims in the other civil actions in In Re: Mountain State University Litigation, Kanawha County Civil Action No. 12-C-9000, and *O'Toole* is not sufficiently similar or related to the Mountain State University Litigation. The Panel requested the Chief Justice transfer *O'Toole* from the Panel to the regular docket of the Circuit Court of Kanawha County for further proceedings.


The Chief Justice deems such request to be warranted.

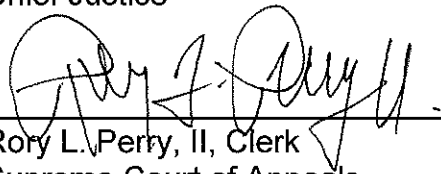
IT IS, THEREFORE, ORDERED, that Kimberly H. O'Toole, Ph.D. v. Mountain State University, Inc. and Charles H. Polk, Kanawha County Civil Action No. 12-C-1297, which was referred to the Panel pursuant to Administrative Order entered December 6,

2012, is hereby transferred to the regular docket of the Circuit Court of Kanawha County for further proceedings.

IT IS FURTHER ORDERED, that a copy of this ORDER be transmitted to the Panel, the Mass Litigation Manager, the Administrative Director of the Courts, and the Clerk of the Circuit Court of Kanawha County, who are to provide copies of the same to all parties of record or their counsel.

ENTERED: FEBRUARY 11, 2013

  
BRENT D. BENJAMIN  
Chief Justice

Attest:   
Rory L. Perry, II, Clerk  
Supreme Court of Appeals